

NATIONAL RECOVERY ADMINISTRATION

CODE OF FAIR COMPETITION

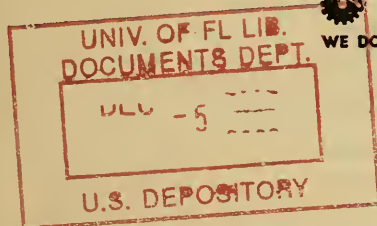
FOR THE

DRY AND POLISHING MOP
MANUFACTURING INDUSTRY

AS APPROVED ON DECEMBER 15, 1933

BY

PRESIDENT ROOSEVELT



1. Executive Order
2. Letter of Transmittal
3. Code

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Aproved Code No. 159

CODE OF FAIR COMPETITION

FOR THE

**DRY AND POLISHING MOP MANUFACTURING
INDUSTRY**

As Approved on December 15, 1933

BY

FRESIDENT ROOSEVELT

Executive Order

An application having been duly made, pursuant to and in full compliance with the provisions of title I of the National Industrial Recovery Act, approved June 16, 1933, for my approval of a Code of Fair Competition for the Dry and Polishing Mop Manufacturing Industry, and hearings having been held thereon and the Administrator having rendered his report containing an analysis of the said code of fair competition together with his recommendations and findings with respect thereto, and the Administrator having found that the said code of fair competition complies in all respects with the pertinent provisions of title I of said act and that the requirements of clauses (1) and (2) of subsection (a) of section 3 of the said act have been met:

NOW, THEREFORE, I, Franklin D. Roosevelt, President of the United States, pursuant to the authority vested in me by title I of the National Industrial Recovery Act, approved June 16, 1933, and otherwise, do adopt and approve the report, recommendations, and findings of the Administrator, and do order that the said code of fair competition be and it is hereby approved.

FRANKLIN D. ROOSEVELT.

Approval recommended:

HUGH S. JOHNSON,
Administrator.

THE WHITE HOUSE,
December 15, 1933.

DECEMBER 4, 1933.

The PRESIDENT,
The White House.

SIR: This is the report on the Code of Fair Competition for the Dry and Polishing Mop Manufacturing Industry, submitted by the National Polish and Mop Manufacturers Association.

The public hearing was conducted in Washington, D.C., on November 23, 1933. Every person who requested an appearance was freely heard in accordance with statutory and regulatory requirements. The code was presented by duly qualified and authorized representatives of the industry, complying with the requirements as representing 60 percent of the number of producers and 75 percent of the volume of the industry.

FAIR TRADE PRACTICES

It was pointed out at the hearing, that it is vital for the industry to include a provision against selling below cost. This provision is aimed at restricting the prevailing practice of offering mops in combination with the products of other industries. In this case the mop is sold at a nominal price, usually fictitious and having no relation to its true worth. Oftentimes the mop is given away as an inducement to buy the other article. The other product usually carries an excessive mark-up, which remains the same even though the consumer may not buy, or even desire, the mop.

Discriminatory trade practices have caused the industry to request a ban on consignment selling because this form of distribution has been used as a weapon to drive competitors out of the market. In the past, certain manufacturers have consigned large quantities of their merchandise and allowed long credit terms to retail outlets, with the agreement that the retailers would discontinue other brands of similar merchandise. To avoid a repetition of this, the industry has requested that the code completely prevent consignment selling.

LABOR PROVISIONS

The provisions having to do with hours of labor are similar to those in the Code of Fair Competition for the Soap and Glycerine Industry, already approved. This was necessary from the practical standpoint, as the great majority of dry mop manufacturers produce polishes and waxes in the same plant. It has already been established that the production of these waxes and polishes are under the Soap and Glycerine Code.

The industry is composed of 25 manufacturers, of which 15 are members of the association. This group employs a total of 536 persons at an average wage of approximately 45 cents per hour. It is estimated that the remaining firms in the industry, who are not

members of the association, employ approximately 100 additional people. No statistics are available showing the wages of this last group.

The industry has been operating under the terms of the President's Reemployment Agreement which has reduced the hours of employees 17% from the 1932 average. The increase in wages since June 1933 averages 25% between employees in the highest paid plants and those in the lowest paid plants. It is estimated that there are now more employees in the industry than there were in 1929, with a wage slightly in excess of that received 4 years ago.

In view of the fact that there is a definite feeling among the institutions for the blind that they wish to act in accordance with the spirit of the National Industrial Recovery Act, the code provides for cooperation between the Code Authority and a committee established to represent the institutions for the blind. This latter committee is to be composed of the Chairman of the Code Committee of the American Association of Workers for the Blind, the President of this Association, or his representative, and a representative from the American Foundation for the Blind. The minimum wage and maximum hour provisions of the Code will not apply to institutions for the blind which comply with the regulations promulgated by this committee in cooperation with the Code Authority and approved by the Administrator.

CONCLUSION

I find that—

The Code complies in all respects with the pertinent provisions of Title I of the National Industrial Recovery Act, including without limitation subsection (a) of Section 7, and subsection (b) of Section 10 thereof.

The National Polish and Mop Manufacturers Association is truly representative of the Dry and Polishing Mop Manufacturing Industry and the bylaws of this association provide no inequitable restriction upon membership.

Accordingly, I recommend the approval of the Code of Fair Competition for the Dry and Polishing Mop Manufacturing Industry.

Respectfully,

HUGH S. JOHNSON,
Administrator.

CODE OF FAIR COMPETITION
FOR THE
DRY AND POLISHING MOP MANUFACTURING INDUSTRY

ARTICLE I—PURPOSE

To effectuate the policies of Title I of the National Industrial Recovery Act, the following provisions are established as a Code of Fair Competition for the Dry and Polishing Mop Manufacturing Industry, and shall be the standard of fair competition for such industry and shall be binding upon every member thereof.

ARTICLE II—DEFINITIONS

The term "industry" as used herein includes the manufacture and sale by manufacturers of dry and polishing mops, hand polish applicators, and dusters, and such branches or subdivisions thereof as may from time to time be included under the provisions of this Code.

The term "employee", as used herein, includes anyone engaged in the industry in any capacity receiving compensation for his services, irrespective of the nature or method of payment of such compensation.

The term "employer", as used herein, includes anyone by whom any such employee is compensated or employed.

The term "member of the industry" includes anyone engaged in the industry, as above defined, either as an employer or on his own behalf.

The term "Association", as used herein, means the National Polish and Mop Manufacturers Association.

The term "southern states", as used herein, includes Virginia, Kentucky, North Carolina, South Carolina, Tennessee, Arkansas, Georgia, Alabama, Mississippi, Louisiana, Texas, and Florida.

The terms "President", "Act", and "Administrator", as used herein, shall mean, respectively, the President of the United States, Title I of the National Industrial Recovery Act, and the Administrator of said Act.

ARTICLE III—HOURS

A. No employee shall work or be permitted to work in excess of an average of 40 hours per week in any six months' period, but in no case in excess of 48 hours in any one week, except as follows:

1. Technical or professional employees such as chemists engaged in their technical or professional capacity who receive more than \$35 per week but not including skilled operating personnel; employees in a managerial, supervisory, or executive capacity who receive \$35 or more per week; supervisors or highly skilled workers in continuous processes where restriction of hours would unavoidably reduce production, and who receive \$35 or more per week; and outside salesmen.

2. Employees on automotive or horse-drawn passenger, express, delivery or freight service, who shall not work or be permitted to work in excess of an average of 44 hours per week in any six months' period or in excess of 48 hours in any calendar year.

3. Engineers, firemen, water tenders, and oilers, who shall not work or be permitted to work in excess of 48 hours a week.

4. Watchmen, who shall not work or be permitted to work in excess of 56 hours a week.

5. Employees on emergency maintenance and repair work, whose hours may be unlimited when engaged in such emergencies.

B. If any employee, except those specified in paragraphs 1 and 4 of Section A of this Article, works in excess of 8 hours in any 24-hour period, or in excess of 40 hours in any calendar week, the wage paid for excess hours shall not be less than one and one third the regular hourly rate.

C. If any employee works for more than one employer, no such employer or employers shall knowingly permit such employee to work for a total number of hours in excess of the number of hours prescribed, and all employers in the industry shall exercise due diligence to carry out the purpose of this section.

ARTICLE IV—WAGES

A. No employee shall be paid less than 32½¢ per hour, or in southern states less than 30¢ per hour.

1. This Article establishes a minimum rate of pay, regardless of whether an employee is compensated on a time-rate, piecework, or other basis.

2. Female employees performing substantially the same work as male employees shall receive the same rates of pay as male employees.

3. Wage differentials existing prior to June 16, 1933, shall be maintained for all employees receiving more than the minimum herein prescribed, notwithstanding that the hours worked may be hereby reduced. All employers shall report to the Code Authority within one month after the effective date of this Code such readjustment of pay schedules.

ARTICLE V—GENERAL LABOR PROVISIONS

1. No person under sixteen (16) years of age shall be employed in the industry, nor anyone under eighteen (18) years of age at operations or occupations hazardous in nature or detrimental to health. In any State an employer shall be deemed to have complied with this provision if he shall have on file a certificate or permit duly issued by the authority in such State empowered to issue employment or

age certificates or permits, showing that the employee is of the required age.

2. Employees shall have the right to organize and bargain collectively through representatives of their own choosing, and shall be free from the interference, restraint, or coercion of employers of labor, or their agents, in the designation of such representatives or in self-organization or in other concerted activities for the purpose of collective bargaining or other mutual aid or protection.

3. No employee and no one seeking employment shall be required as a condition of employment to join any company union or to refrain from joining, organizing, or assisting a labor organization of his own choosing; and

4. Employers shall comply with the maximum hours of labor, minimum rates of pay, and other conditions of employment, approved or prescribed by the President.

5. Within each State this Code shall not supersede any laws of such State imposing more stringent requirements on employers regulating the age of employees, wages, hours of work, or health, fire, or general working conditions than under this Code.

6. Employers shall not reclassify employees or duties of occupations performed by employees so as to defeat the purposes of the Act.

7. Each employer shall post in conspicuous places full copies of the labor provisions of this Code.

ARTICLE VI—ADMINISTRATION

To further effectuate the policies of the Act, a Code Authority is hereby constituted to cooperate with the Administrator in the administration of this Code.

1. Organization and constitution of Code Authority.

(a) The Code Authority shall consist of five (5) individuals, or such other number as may be approved from time to time by the Administrator, to be selected as hereinafter set forth. The Administrator, in his discretion, may appoint not more than three additional members without vote to represent the Administrator or such groups or interests as may be agreed upon, without expense to the industry.

(b) Four members of the Code Authority shall be selected by the Association from among its membership by ballot, and one member shall be selected by the nonmembers.

(c) The Association shall: (1) Impose no inequitable restrictions on membership, and (2) submit to the Administrator true copies of its articles of association, bylaws, regulations, and any amendments when made thereto, together with such other information as to membership, organization, and activities as the Administrator may deem necessary to effectuate the purposes of the Act.

(d) In order that the Code Authority shall at all times be truly representative of the industry and in other respects comply with the provisions of the Act, the Administrator may provide such hearings as he may deem proper; and thereafter if he shall find that the Code Authority is not truly representative or does not in other respects comply with the provisions of the Act, may require an ap-

propriate modification in the method of selection of the Code Authority.

2. The Code Authority shall have the following duties and powers to the extent permitted by the Act, subject to the right of the Administrator on review to disapprove or modify any action taken by the Code Authority.

(a) With a view to informing the President and the Administrator as to the observance of this Code, and as to whether the industry is taking appropriate steps to effectuate the declared policy of the Act, each member of the industry shall furnish duly certified reports in the form and as required by the Code Authority on production, orders, sales, prices, and conditions of employment. The Association is hereby constituted the agency for the collection and receipt of such reports and for the forwarding of such reports to the Administrator; and all such reports shall be held in strict confidence by the Association, except when they shall be required by the Administrator or the Code Authority in connection with a violation of the provisions of this Code.

(b) The Code Authority may from time to time present to the Administrator recommendations based on conditions in the industry as they may develop which will tend to effectuate the operation of the provisions of this Code.

(c) The Code Authority is also set up to cooperate with the Administrator in making investigations as to the functioning and observance of any provisions of this Code, at its own instance or on complaint of any person affected, and to report the same to the Administrator.

(d) Members of the industry shall be entitled to participate in and share the benefits of the activities of the Code Authority and to participate in the selection of the members thereof by assenting to and complying with the requirements of this Code and sustaining their reasonable share of the expenses of its administration. The reasonable share of the expenses shall be determined by the Code Authority, subject to review by the Administrator, on the basis of volume of business and/or such other factors as may be deemed equitable to be taken into consideration.

3. In addition to the information required to be submitted to the Code Authority, there shall be furnished to government agencies by the Association such statistical information as the Administrator may deem necessary for the purposes recited in Section 3 (a) of the Act, providing all such requests are accompanied by the signed approval of the Administrator and an adequate supply of questionnaires to be distributed to the members of the industry by the Association for the collection and compilation of such statistics.

4. The Industry recognizes the humane consideration attached to products of institutions for the blind, and in order to give constructive assistance and to prevent unfair competition, it is the will and purpose of the Industry to cooperate with such institutions. To effectuate such purpose, a committee as hereinafter provided, shall be recognized by the Code Authority for the purpose of conferring with the Code Authority and adjusting all matters arising out of the competition of the products of the blind as they affect this industry. This committee shall secure necessary data from institu-

tions for the blind relative to all matters affecting competition of the blind in this industry. The committee shall be made up as follows: Chairman of the Code Committee of the American Association of Workers for the Blind, President or his representative of the American Association of Workers for the Blind, and a representative from the American Foundation for the Blind. The minimum wages and maximum hours provisions shall not apply to institutions for the blind which comply with the rules and regulations of the above committee, after approval by the Administrator.

ARTICLE VII—TRADE PRACTICES

The following practices constitute unfair methods of competition for members of the industry and are prohibited:

1. *False Marking or Branding*.—The false marking or branding of any product of the industry which has the tendency to mislead or deceive customers or prospective customers, whether as to grade, quality, quantity, substance, character, nature, origin, size, finish or preparation or otherwise.

2. *Misrepresentation or False or Misleading Advertising*.—The making or causing or knowingly permitting to be made or published any false, materially inaccurate, or deceptive statement by way of advertisement or otherwise, whether concerning the grade, quality, quantity, substance, character, nature, origin, size, finish, or preparation of any product of the industry, or credit terms, values, policies, or services of any member of the industry, or otherwise, having the tendency to mislead or deceive customers or prospective customers.

3. *Commercial Bribery*.—Directly or indirectly to give or permit to be given, or offer to give, money or anything of value to agents, employees, or representatives of customers or prospective customers, or to agents, employees, or representatives of competitor's customers or prospective customers, without the knowledge of their employers or principals, as an inducement to influence their employers or principals to purchase or contract to purchase from the makers of such gift or offer, or to influence such employers or principals to refrain from dealing or contracting to deal with competitors.

4. *Interference with Contractual Relations*.—Maliciously inducing or attempting to induce the breach of an existing oral or written contract between a competitor and his customer or source of supply, or interference with or obstructing the performance of any such contractual duties or services.

5. *Secret Rebates*.—The secret payment or allowance of rebates, refunds, commissions, credits, or unearned discounts, whether in the form of money or otherwise, or the secret extension to certain purchasers of special services or privileges not extended to all purchasers on like terms and conditions.

6. *Giving of Prizes, Premiums, or Gifts*.—The offering or giving of prizes, premiums, or gifts in connection with the sale of products, or as an inducement thereto by any scheme which involves lottery, misrepresentation, or fraud.

7. *Defamation*.—The defamation of competitors by falsely imputing to them dishonorable conduct, inability to perform contracts,

questionable credit standing, or by other false representations or by false disparagement of the grade or quality of their goods.

8. *Threats of Litigation.*—The publishing or circularizing of threats of suits for infringement of patents or trade marks or of any other legal proceedings not in good faith, with the purpose of harassing competitors or intimidating their customers.

9. *Espionage of Competitors.*—Securing confidential information concerning the business of a competitor by a false or misleading statement or representation, by a false impersonation of one in authority, by bribery, or by any other unfair method.

10. *Sales Below Cost.*—The Code Authority shall formulate or cause to be formulated a uniform accounting system which shall be adaptable to the cost accounting procedure and to the business of the Industry. Such plan shall specify the factors which shall be included in determining the costs of each member of the Industry. Upon approval by the Administrator of such a system of cost accounting for the Industry, complete advice concerning it shall be distributed by the Code Authority to all members of the Industry. Thereafter no member of the Industry shall sell the products of the Industry at such prices or upon such terms and conditions of sale as will result in the purchaser's paying for such product less than the cost thereof to the seller, determined in accordance with the aforesaid system of cost accounting, except (1) to meet competition, not instigated directly or indirectly by the party desiring to meet such competition, and (2) to meet competition in violation of this rule concerning which he has made complaint to the Code Authority or any authorized agency thereof, but only pending action thereon, and (3) to liquidate stocks of distress merchandise under such conditions as may be approved by the Code Authority and the Administrator.

11. *Published Prices.*—Within ten (10) days each member of the Industry shall publish to the trade, and file with the Code Authority, a price list for all products of the Industry sold or offered for sale by him, together with the discounts and transportation allowances, if any, allowed therefrom, and fixed terms of payment; which price lists shall fully and accurately describe each product as to color, treatment and weight of yarn, type of individual packaging, and the finish of the handle, if included. Revised price lists or revised discounts or terms and conditions of sale may be filed and published from time to time thereafter by any member of the Industry, provided, however, that such revision shall be published and filed with the Code Authority at least ten days in advance of the effective date thereof. Copies of revised price lists and discounts with notice of the effective date specified shall be sent immediately by the Code Authority to all known members of the Industry, who thereupon may file, if they so desire, revisions of their price lists and/or discounts, which may become effective upon the date when the revised price lists or discounts first filed shall go into effect.

12. *Sales Below Published Prices.*—No member of the Industry shall sell or offer for sale any products of the Industry at prices lower than the prices noted in his price list or on more favorable terms and conditions of sale than the terms and conditions of sale previously published and filed by such member with the Code Authority in



accordance with the foregoing provisions and in effect at the time of such sale.

13. *False Invoices.*—The making of any false invoice with the intent or with the effect of misleading the Code Authority.

14. *Consignment.*—The sale or offering of any products of the industry on consignment.

15. *Other Practices.*—Nothing in this Code shall limit the effect of any adjudication by the Courts or holding by the Federal Trade Commission on complaint, finding, and order, that any practice or method is unfair, providing that such adjudication or holding is not inconsistent with any provision of the Act or of this Code.

ARTICLE VIII—MODIFICATION

1. This Code and all the provisions thereof are expressly made subject to the right of the President, in accordance with the provisions of subsection (b) of Section 10 of the Act, from time to time, to cancel or modify any order, approval, license, rule, or regulation issued under Title I of said Act and specifically, but without limitation, to the right of the President to cancel or modify his approval of this Code or any conditions imposed by him upon his approval thereof.

2. This Code, except as to provisions required by the Act, may be modified on the basis of experience or changes in circumstances, such modification to be based upon application to the Administrator and such notice and hearing as he shall specify, and to become effective on approval of the President.

ARTICLE IX—MONOPOLIES, ETC.

No provision of this Code shall be so applied as to permit monopolies or monopolistic practices, or to eliminate, oppress, or discriminate against small enterprises.

ARTICLE X—PRICE INCREASES

Whereas the policy of the Act to increase purchasing power will be made impossible of consummation if prices of goods and services increase as rapidly as wages, it is recognized that price increases should be delayed and that, when made, the same should, so far as reasonable, be limited to actual increases in the seller's costs.

ARTICLE XI—EFFECTIVE DATE

1. The provisions of this Code shall be in effect ten (10) days after its approval by the President.

2. This Code shall terminate when the President or the Congress shall declare the Act has ceased to be effective.

Approved Code No. 159.
Registry No. 1609-05.